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ABSTRACT

In response to the concern for the spreading constitutional and historical ignorance of students, the essay outlines the development of an instructional unit on the Constitution based on selected and personal documents. Covering a development period of approximately 1.5 years, the essay traces the step-by-step efforts of the National Archives to develop a supplemental teaching unit on the Constitution. The process included examining existing material packets; reviewing the professional literature; surveying current textbooks' handling of the Constitution; consulting archivists; selecting key documents; tracing the development of a single constitutional issue; and overcoming the problems of researching and writing the unit. Realizing few teachers will use the 35-document unit in its entirety, the aim of the Constitutional Packet as conceived by the National Archives is to enable students to better understand and appreciate the Constitution, to enliven the key figures in its history, to demonstrate its impact upon their lives, and to realize that the Constitution is a living document. (TRS)

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USING DOCUMENTS TO TEACH THE CONSTITUTION

BY

WYNELL G. BURROUGHS AND JEAN WEST MUELLER

FALL 1985

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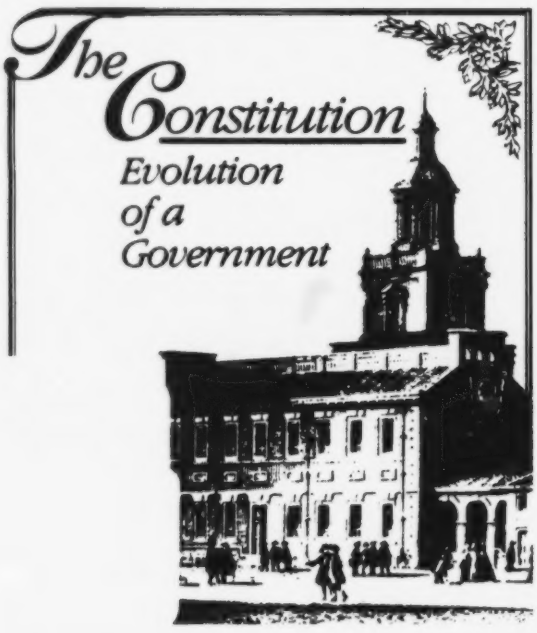
Our Heritage in Documents

Our Heritage in Documents has been developed to broaden the appreciation of the federal documentary heritage by both researchers and the general public. In each issue that it appears, Our Heritage in Documents will focus on a single document or a small number of related documents that elucidate an important chapter in our nation's past. Each essay will discuss the origin and nature of the documents, their importance to our understanding of American history, and how they can be used today. Copies of the documents discussed in this feature are available for use in the National Archives building in Washington, D.C., in some instances at its eleven regional branches, or may be purchased.

Using Documents to Teach the Constitution

By Wynell G Burroughs and Jean West Mueller



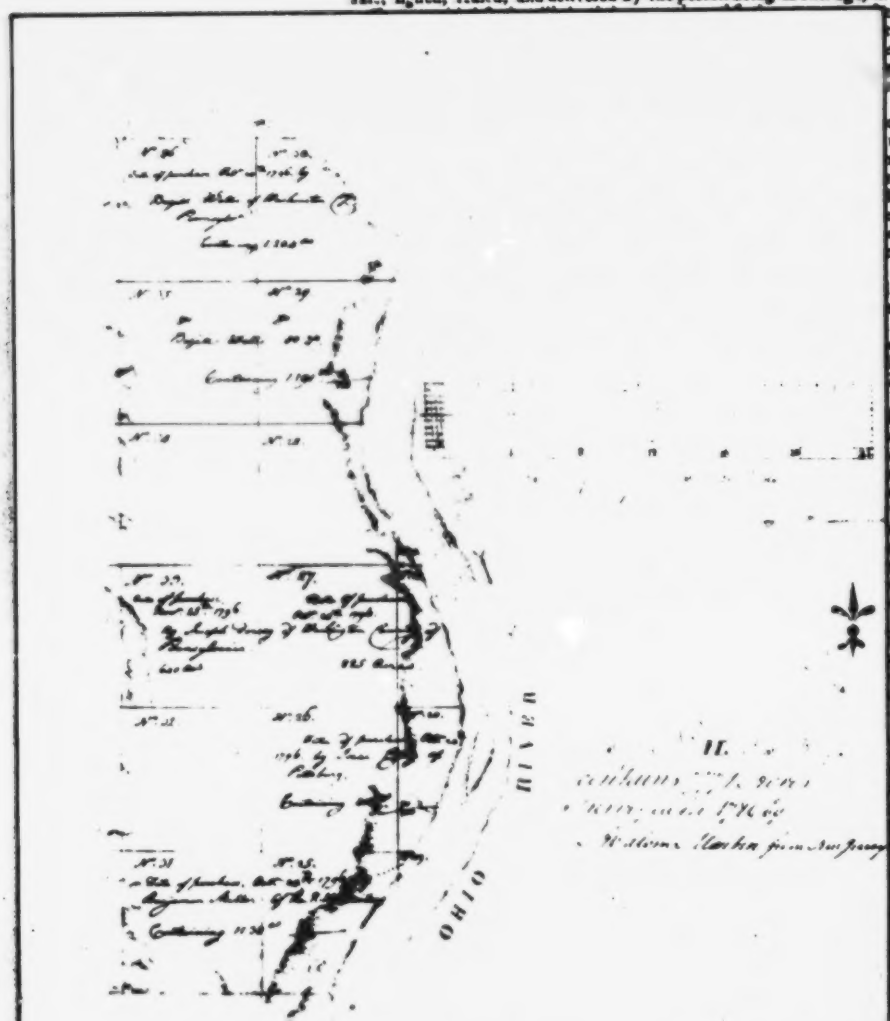
In the Star Trek episode "The Omega Glory," Capt. James T. Kirk astonishes the savage Anks by declaiming the holy words which they had debased over centuries of rote repetition to the point of gibberish. Their mystic phrase was "We the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." As the Constitution approaches the celebration of its second century, more must be done lest the words and ideas in this great document become as meaningless to the American people as they were to the Anks.

In fact, ignorance of this nation's constitutional principles is altogether too common at present. High school students, for example, have a poor understanding of the Constitution, as evidenced by several projects and studies now in progress. In 1980 the American Historical Association and the American Political Science Association held a conference on "Teaching the Constitution in American Schools" for the purpose of assessing the status of teaching about the Constitution and to offer recommendations for needed programs. In one forceful paper presented at the conference, Karen S. Dawson of Washington University in St. Louis reviewed standardized test scores of secondary school students on constitutional and citizenship issues and concluded that there were significant deficiencies in American adolescents' knowledge of democracy, knowledge of the structure and function of government, and recognition of government officials. We concur with Dr. Dawson's assessment. Based on our own teaching experiences in public school classrooms in Tuscaloosa, Alabama and Fairfax County, Virginia, we know that many students are convinced that the

An Ordinance for the Government of the Territory of the United States, North-West of the River Ohio.

BE IT ORDAINED by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grand-child, to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them their deceased parents share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. ——— And until the governor and judges shall adopt laws as herein after mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be, (being of full age) and attested by three witnesses; — and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person being of full age, in whom the estate may be, and attested by two witnesses, acknowledged, or the execution thereof duly proved, and registers shall be appointed for that purpose; and personal property may be conveyed by leases and assignments, or sale, given, and delivered; saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.



Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for four years, unless sooner revoked by Congress; he shall reside within the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office.

There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings every six months, to the secretary of Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and the governor and judges shall adopt such laws of the original states, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander in chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers in each county or township, as he shall think for the preservation of the peace and good order in the same: After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof—and he shall proceed from time to time as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: Provided, that for every five hundred free male inhabitants there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the legislature: Provided, that no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the states three years and be a resident in the district, or unless he shall have resided in the district three years; and in either case shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: Provided, also, that a freehold in fifty acres of land in the district, having been a citizen of one of the states three years, and a resident in the district; or the like freehold and two years residence in the district aforesaid, shall qualify a person to be elected a representative.

The representatives thus elected, shall serve for the term of two years, and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly or legislature shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress, any three of whom to be a quorum: and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together: and when met they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill, or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue and dissolve the general assembly when, in his opinion, it shall be expedient.

The governor, judges, legislative council, secretary and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity and of office; the governor before the president of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled in one room, shall have authority by joint ballot to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting during this temporary government.

One of the documents chosen for inclusion in the National Archives teaching unit was the Northwest Ordinance of 1787 which organized the Northwest Territory and established procedures for admitting new states into the Union.

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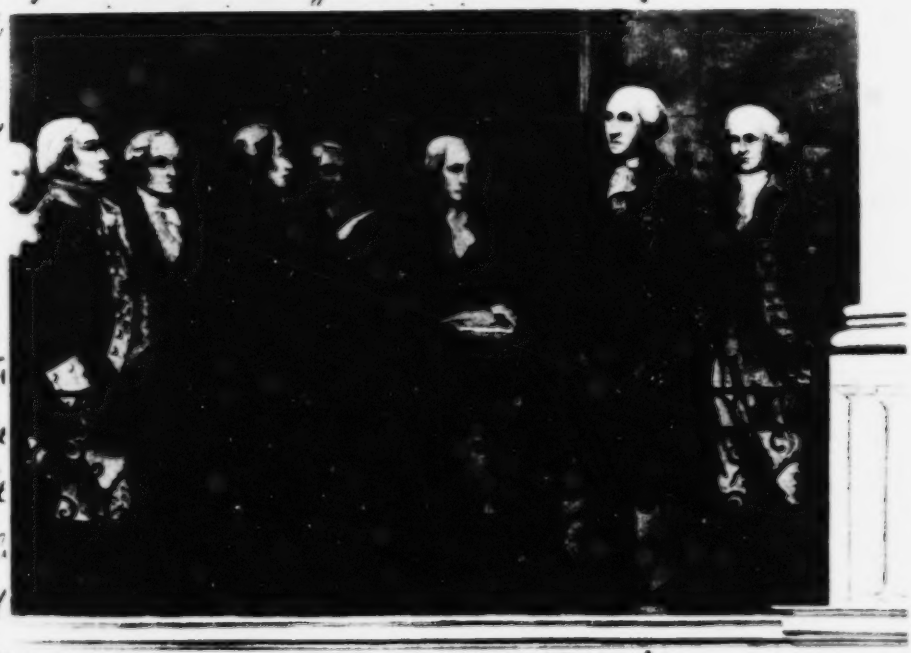
Oath administered to the
President of the U. States.

April 30th 1789.

The Vice Presidents chair was placed on right of the Presidents Speakers the left. The Senate did not adjourn - The House did - came up headed by their Speaker and followed by the clerk. The President seated himself and being informed by the Vice President that the two Houses were ready to attend him to take the oath, The Secretary of the Senate whose seat was inclined
President ca
He chanc
ed the oath.
hand on the
after which
States kisse
he proclaim
United State
United State
a few minut
addressed the two Houses of Congress as
by



Another document in the Archives teaching unit is the formal record of the oath of office taken by President George Washington on April 30, 1789. Inset is a painting commemorating the event.

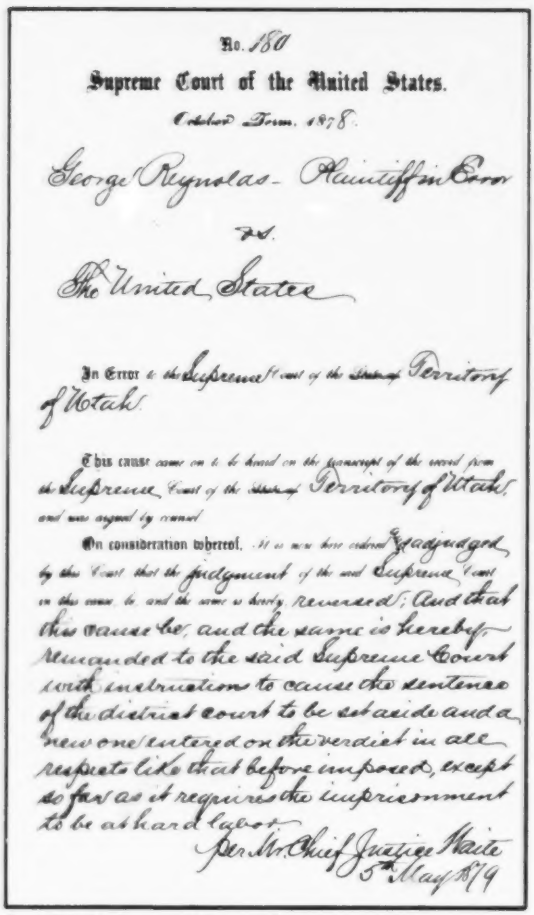
Declaration of Independence and the Bill of Rights represent all that they need to know about their government. In response, we expended extra time and effort by running simulated constitutional conventions or assigning analyses of the Constitution as a utopian blueprint in an attempt to bring our students to a more complete understanding and appreciation of this document—the very foundation of our government.

Why are students blind to the Constitution? One major reason is that the document fares poorly in civics and government textbooks for both the ninth and eleventh grade levels. Richard Remy of Ohio State University analyzed ten leading textbooks used in secondary schools across the United States for content and development of the Constitution, the constitutional period, and constitutional issues. He concluded that the Constitution's significance is overlooked, constitutional content is treated in a boring manner, the principle of judicial review is treated superficially, and the Constitution generally is treated in an isolated, irrelevant manner. Remy's findings are reinforced by those of John J. Patrick of Indiana University, who examined the treatment of the Constitution in ten textbooks used extensively in secondary level American history classes. Since teachers tend to use a single approved text as the core of information and instruction, these textbook deficiencies contribute significantly to the poor performance of American pupils.

The National Archives has been concerned for the past several years about this spreading constitutional and historical ignorance. In response, the Archives developed supplemental instructional packets on various topics in American history. Typically, the units consist of thirty to forty reproductions of documents and a teacher's guide with lesson plans and other instructional aids. These kits have the objectives of teaching students the skills of identifying factual evidence and points of view; evaluating the significance of evidence; developing defensible inferences, conclusions, and generalizations from factual information; comparing and contrasting evidence drawn from documents; and preparing oral and/or written statements based on evidence within the documents. Because teachers have had little experience in using primary sources in the classroom, this program to make primary source materials available to secondary school classrooms has also included teacher training provided through workshops and inservice programs at the National Archives and at teachers' professional associations across the nation.

Over the past several years the education specialists at the Archives have developed units on

James Wilson of Pennsylvania was one of the most influential delegates to the Constitutional Convention of 1787.



No. 180

Supreme Court of the United States.

October Term, 1878.

George Reynolds - Plaintiff in Error

vs.

The United States

In Error to the Supreme Court of the Territory of Utah

This cause came on to be heard on the transcript of the record from the Supreme Court of the Territory of Utah, and was argued by counsel

On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said Supreme Court in this cause be, and the same is hereby, reversed; And that this cause be, and the same is hereby remanded to the said Supreme Court with instructions to cause the sentence of the district court to be set aside and a new one entered on the verdict in all respects like that before imposed, except so far as it requires the imprisonment to be at hard labor.

Per Mr. Chief Justice Waite

5th May 1879

In 1879 the Supreme Court ruled that the Mormon concept of plural marriages was in conflict with federal law.

a variety of historical topics such as the Civil War, the Progressive Years, and World War I. As the units were put into classroom use and we heard from history and government teachers, it became clear that a constitutional unit was a critical need. Accordingly, we focused our attention on educational materials that would examine the constitutional era, the development of the Constitution, changes in the Constitution through both formal (through amendment and judicial review) and informal (through custom and usage) means, and the evolution of one constitutional issue. Using the holdings of the National Archives, our objective was to develop a supplemental unit that would enable secondary school and junior college students to better understand and appreciate the Constitution and its impact upon their lives. We wanted to enliven the key figures in the history of the Constitution and to demonstrate the impact of the Constitution on the lives of students. We wanted students to realize that the Constitution is a living document, not merely four faded pages encased in inert gas, a curiosity kept in the rotunda of the National Archives.

With those lofty goals in mind, we set out in the fall of 1983 to find suitable documents. Our first step was to examine existing materials packets, to review the professional literature, and to survey current textbooks' handling of the Constitution. We also reviewed evaluations of previous units and talked to teachers about what they needed in a learning package and how they taught constitutional issues. In our research, we learned that teaching from primary sources personalizes history and that it requires the use of higher level cognitive skills; that comment was repeated many times in these conversations. With that validation of our purpose we proceeded to refresh ourselves about the history of the era by reading selected books on the Constitution and the great document itself.

The next step was to consult as many archivists and other Archives staff as possible to identify outstanding issues embodied in the documents in the National Archives holdings. The unit was tentatively titled and structured. Originally, it was to consist of two parts, and attention was initially focused on the first section, the politics of developing the Constitution itself. We looked for ten key documents that would illustrate the evolution from British colonial rule to a national American government, from the Articles of Confederation to the Constitution and the Bill of Rights, and through amendment over the past two hundred years. Beyond the historical content, we were interested in finding materials that were high in human interest, which would make the period alive for students. *The Formation of the Union*, an exhibition in the rotunda in the Archives building, included a number of significant materials of that period and description, so we examined it closely; nearly a dozen of the documents from that display were selected for the unit. Among them were the Articles of Association, the Northwest Ordinance, Washington's copy of the Constitution, and the seventeen original articles proposed for the Bill of Rights. With a clearer idea of where we had gaps and what we needed to fill them, we went to archivists for suggestions, then were directed either to the stacks or microfilm reading room. When we were content with our first ten documents, we sat down to write the notes to the teacher and the lesson plans which are included in the teacher's guide.

At the end of the summer of 1984, as we reviewed what we had done, we realized that the first section included the landmark documents

His Excellency
John Fitzgerald Kennedy
President of the United States of America

On the occasion of the Feast of Christmas, your Excellency
ous wife have thoughtfully sent Us greetings and
and We acknowledge this kind gesture with warm
nd gratitude.
oke the choicest blessings of the Infant Saviour upon
y, upon Mrs Kennedy, your children and family, and
ple of the United States of America, praying that the
y bring true peace and lasting joy to your noble nation
ld.

e Vatican, December 31, 1961

Joannes XXIII

The presidential candidacy of John F. Kennedy, a Roman Catholic, caused many Americans to question his ability to serve both church and state. Kennedy stated that he would resign if his religious beliefs conflicted with his duties as president. Above is a document from Pope John XXIII included in the Archives teaching unit.

we were looking for, but lacked a personal touch. A dearth of eyewitness accounts on the making of the Constitution forced us to broaden our approach. Thus a second segment, the beginning of the government, began to take shape in our minds. We examined Revolutionary War lottery journals listing ticket numbers and prizes in hopes of humanizing the critical problem of the early nation's debt, but found the material insufficient for classroom use. We reviewed plat after plat of survey maps made in 1786 by one Absalom Martin of New Jersey, spiritually following him as he blazed his survey marks through the wilderness of Ohio, but found them wanting for our purpose. Perhaps the most unsettling event was transcribing a letter written about the Whiskey Rebellion into a word processor. It was eerie to us to see twentieth century technology seize that eighteenth century document. Words which had been applied ink to paper were now appearing through the movement of electrons on a word processor screen and were being recorded on a magnetic disk!

In December 1984 we moved to the third part, tracing the evolution of a single constitutional issue. Although the topics of federalism, freedom of speech, and civil rights were interesting, we decided that freedom of religion was a timely subject, well documented, and, most important, an issue that was real and compelling to young people. The issue of religious freedom cuts across age and ability levels and would enable us to meet the needs of our diverse audience. That choice brought us to another problem, however. How does one avoid partisanship in framing descriptions of and writing lessons for a constitutional issue? We walked a tightrope, trying to avoid the twin evils of bias and apathy. Continually asking outside readers for their reactions helped us to maintain an impartial stance, and we frequently reminded ourselves to consider the diverse environments of our audience. We mentally placed ourselves in classrooms both as teachers and pupils and asked if the presentation was offensive or boring. Respect for the integrity of our audience became our most reliable guide in surmounting our problems. The materials were fascinating, and another big challenge was to decide which documents to select. In the end we chose eight documents, from debate over the First Amendment to a petition of 22,626 women of Utah in support of polygamy, which showed the personal side of the issue of freedom of religion and which were teachable. By mid-January 1985 documents had been selected (thirty-five in all), lessons written, and support materials readied.

At first glance, the process of researching and writing this unit appears comparable to the process for previous units, but the Constitution unit presented a number of unprecedented challenges. The first problem we encountered was how to make the history of the constitutional period more interesting to contemporary high school students. Because the critical documents in the first part (such as the Articles of Association, Declaration of Independence, and the Northwest Ordinance) are not really personal, it was extremely important to select documents in the second and third parts that would bring constitutional issues into the realm of the average individual. Mary Buchanan's loan certificate helped to bring the Hamiltonian program for the public debt to a human level, as Walter Gobitus' note with his grocery store's letterhead helped to bring the issue of state established religion into a neighborhood setting.

Another problem was the fact that the National Archives has a relatively small amount of archival material from the constitutional period. This is due, in part, to the time period. The eighteenth century was an age in which all writing was done by human hand; paper did not proliferate as it has with the advent of typewriters and photocopiers. Also, the agreement to secrecy by delegates to the Constitutional Convention meant that few papers were generated. Many of the documents that were created were personal papers now in private hands. Finally, time has taken its share in attrition of these delicate, venerable documents. There are physical problems with many of the documents which have survived. Some documents are badly faded. Others, on which both sides of the paper were written, are illegible due to ink staining through the paper. Some of the documents' authors had terrible handwriting and others spelled and used grammar whimsically at best. We tried to avoid using such documents, but a few were too important to omit. We decided that when a document that was marginally legible was selected, a transcription would be made for inclusion in the teacher's guide.

Another major problem was that, in a sense, every item in the National Archives is a product of the Constitution. What were the most important things for students to learn about? The Constitution packet was aimed for a wider audience than any previous unit. Students from eighth grade through junior college studying subjects ranging from U.S. history to economics were targeted. We took great care in selecting significant, high interest materials and in writing lessons with a wide variety of exercises for the anticipated broad range of ability and interest groups.

We hope that teachers will use the unit to enhance their students' understanding of the Constitution, but we are aware that very few will use it in its entirety. We anticipate that teachers will use selected lessons or will simply pull documents of interest to them and generate their own lesson plans. This expected fragmentation of the unit is not disturbing to us. We worked very hard to structure and organize the materials and filled the unit with internal cross referencing so that the entire package would be integrated. Yet, ultimately, it is the individual student who we hope will be reached by this packet. Whatever strategies the teacher can use most effectively and comfortably to teach the Constitution are the ones that he or she must use if American adolescents are to get in touch with their heritage.

As we look back over the unit and our experiences in developing it, one fact supercedes all others. The Constitution is a miracle. Even after teaching, researching, and living closely with this document for over a year, it continues to fascinate us. We know how it came to be, but it still amazes us that such a disparate group of eighteenth century men could create a lasting compromise of such subtlety and flexibility. Our studies revealed to us how the Constitution has evolved and how it touches on our daily lives, yet it is still surprising to reflect upon. Our esteem for the Constitution has increased as we have studied it. It is our sincerest hope that our sense of wonderment and respect are conveyed in this package and that these feelings will be transmitted in the classroom. An ignorant citizenry surely represents the greatest crisis the Constitution will ever face. Thomas Jefferson foresaw this threat when, in a letter to George Wythe in 1786, he wrote, "I think by far the most important bill in our whole code is that for the diffusion of learning among the people. No other sure foundation can be devised for the preservation of freedom, and happiness . . . Preach, my dear Sir, a crusade against ignorance; establish and improve the law for educating the common people. Let our countrymen know that the people alone can protect us against these evils. . . ." □

Wynell G. Burroughs and Jean West Mueller are on the staff of the National Archives and Records Administration. Their documentary teaching unit, *The Constitution: Evolution of a Government*, is available from Social Issues Resources Series, Inc., P.O. Box 2507, Boca Raton, FL 33427.

Exhibits are yet another way of educating students about the value of documents. Each year hundreds of thousands of school children visit the National Archives to view the great documents of the nation's past.

One of the three authors of The Federalist, John Jay was an important defender of the Constitution. He also served as the first chief justice of the United States Supreme Court.